

REMARKS

In the Office Action, the Examiner acknowledged Applicant's election with traverse of Species I, claims 1-5 and 11-12 in the reply filed on October 18, 2004, however, did not find the traversal on the ground that all the species falls under the same field of searches as persuasive. The Examiner stated that "considerations and searches that are required for the four embodiments with many structural variations would result in a significantly greater burden". Therefore, the Examiner made the requirement FINAL.

To comply with the finality of the restriction requirement, claims 6-10 have been canceled in this Office Action.

Next, the Examiner objected to the abstract of the disclosure because "phrases that can be implied, such as "The present invention teaches ...", line 1 of the abstract, should be avoided; and legal phraseologies, such as the words "said" and "means", e.g. the word "means" in line 13 of the abstract, should not be used".

The abstract of the disclosure has been amended to delete "~~The present invention teaches~~" and the legal phraseologies, such as the word "~~means~~".

Therefore, the Examiner is respectfully requested to withdraw his objection to the abstract of the disclosure.

Additionally, the Examiner objected to the specification because on "Page 1, the patent number of the cited U.S. Patent titled" Hydraulic Draft Gear with Constant Force Device" is incorrect".

The specification has been amended to correct the patent number of the cited U.S. Patent titled" Hydraulic Draft Gear with Constant Force Device from "3,358,698" to -3,368,698--.

The Examiner also requested a correction of elements 160, 162, 164, and 170 which are described on pages 18-20 but "the same are not shown in the instant drawings.

The proposed amended FIG. 2-5, attached herewith, now contains reference elements 160, 162, 164, and 170.

Therefore, the Examiner is respectfully requested to withdraw his objection to the specification.

Turning to the more substantive matters, the Examiner rejected claims 1-6 under 35 U.S.C. 103(a) as being unpatentable over Cardwell (US 3,368,698) in view of Merker (US 5,529,194). In support of his rejection, the Examiner stated, "Cardwell discloses a draft gear assembly having features similar to that recited in the instant claims".

The Examiner further stated, "Regarding the diameter of the working end of the stem element being between .278 inches and .279 inches, consider lines 46-47, column 4 of Cardwell; wherein, it is indicated that stem element 44, including the

working end thereof, has a diameter range of "approximately" 9/32 inch, and note that a diameter between .278 and .279 inches is equivalent to the approximately 9/32 inch described by Cardwell.

Regarding the instant claimed stationary plates having a Brinell hardness of between about 429 and 495, it is noted that Cardwell does not disclose the hardness of stationary plates 13; however, as matter of routine engineering design processes, it would have been obvious to one skilled in the art to select optimal levels of hardness for the components of the draft gear assembly of Cardwell, in corresponding to the expected levels of operating loads on the assembly, so as to achieve the expected performance thereof. In the instant case, it would have been obvious to one skilled in the art to make the stationary plates of Cardwell with a Brinell hardness of between about 429 and 495 so as to adequately withstand the operating load that would require such level of hardness for proper operation and durability.

Regarding the instant claimed center wedge and wedge shoes having an angle of about 53 degrees, consider Figure 3 of Merker, wherein the center wedge and wedge shoes having an angle of about 53 degrees. In view of Merker, it would have been obvious to one skilled in the art to modify the angle of the

corresponding elements of Cardwell to be about 53 degree so as to achieve the expected performance thereof.

Regarding the instant claimed shock absorbing capacity increasing means, recited in claim 1, note lines 46-47, column 4 of Cardwell, which suggests that stem element 44, including the working end thereof, has a diameter range of "approximately" 9/32 inch; wherein, such range inherently has a lower end and a higher end of the range. Accordingly, when the draft gear assembly of Cardwell is equipped with a stem element 44 that has a small diameter in the lower end of said range, the assembly is considered to have an additional shock absorbing capacity increasing means, as in comparison to a similar draft gear of Cardwell that is equipped with a stem element 44 with a large diameter in the higher end of said range.

Regarding the instant claimed positioning means, as recited in claim 1, and the positioning means including a build-up portion, recited in claim 3, consider the positioning means 36 with build-up portion 38 of Merker. In view of Merker, it would have been obvious to one skilled in the art to modify the base of the housing structure of Cardwell to include positioning means with a build-up portion, in a manner similar to that taught by Merker, so as to better positioning associated components that engage the bottom of the housing.

Regarding the instant claimed number of fluid passages, recited in claims 4-5, consider passages 48 described in lines 10-25, column 3 of Cardwell. Note that when the number of passages 48 is two, the passages are equally spaced by being diametrically opposed; and when the number is more than two, it would have been obvious to one skilled in the art to apply the same equally spacing concept to other number of passages as well so as to maintain a balanced force distribution during operations".

The applicant acknowledges with appreciation that objected claims 11-12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 1 has been amended to incorporate allowable matter of claim 11. Claim 11 has been canceled.

Therefore, the Examiner is respectfully requested to withdraw his rejection of claim 1 under 35 U.S.C. 103(a) as being unpatentable over Cardwell (US 3,368,698) in view of Merker (US 5,529,194).

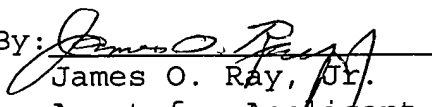
Conclusion

In view of the above amendments to the claims, drawings and the remarks associated therewith, the Applicant believes that independent claims 1 and 13 are in a condition for allowance and such allowance by the Examiner is respectfully requested. Since it is believed that independent claims 1 and 13 are in condition for allowance, their dependent claims further providing limitations are also in a condition for allowance.

The Applicant believes that this application is now ready for allowance and respectfully requests that the application be passed to issue.

In the event the Examiner has further difficulties with the election, he is invited to contact the undersigned agent by telephone at 412-380-0725 to resolve any remaining questions or issues by interview and/or by Examiner's amendment as to any matter that will expedite the completion of the prosecution of the application.

Respectfully submitted,

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